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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/529,936

03/31/2005

Robyn Ann Sherman

13869.53

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22913

7590

11/21/2006

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(F/K/A WORKMAN NYDEGGER & SEELEY)  
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EXAMINER

LEGESSE, NINI F

ART UNIT

PAPER NUMBER

3711

DATE MAILED: 11/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/529,936	<b>Applicant(s)</b> SHERMAN, ROBYN ANN	
	<b>Examiner</b> Nini F. Legesse	<b>Art Unit</b> 3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-15 is/are rejected.
- 7) ☐ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>02/09/06</u> | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Specification***

The disclosure is objected to because of the following informalities: all the writings after claim 15 need to be deleted.

The abstract of the disclosure is objected to because the abstract should be on a separate paper by itself. Correction is required. See MPEP § 608.01(b).

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claims 14 and 15** rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 14 recites the limitation "two said tracks" in line 1. There is insufficient antecedent basis for this limitation in the claim. Claim 1 recites one track only not two.

It is not clear as to what structure is encompassed in claim 15. The claim does not appear to further limit the preceding claims or it does not stand by itself.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1, 2, 5, 6, 8, 9, 11, 12, 13, and 15**, are rejected under 35 U.S.C. 102(b) as being anticipated by Dealy (US Patent No. 3,766,538).

**Regarding claims 1, 6, 8, and 15**, Dealy discloses a track (40), a free moving component (46), a detector (42), and an indicator (24) as claimed (see Figs. 1-4).

**Regarding claim 2**, depending on the body position of the user, the ramp could be considered as being inclined. In addition, column 2 lines 35+ indicate that the device is capable of being oriented in various degrees of inclination.

**Regarding claim 5**, see element 46 in Fig. 3.

**Regarding claim 9**, see line 12 of the abstract. It is stated that the indicator could be auditory or light signal.

**Regarding claim 11**, since the device is provided with slots to be utilized for attaching the device to a user, the device is considered as being capable of being attached to a shaft of a putter. Please note that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

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**Regarding claim 12**, column 2 lines 35+ indicate that the inclination of the ramp (20) is adjustable.

**Regarding claim 13**, the combination of elements 40 and 46 could be considered as a leveling pendulum.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dealy in view of Conley et al. (US Patent No. 5,082,283). Dealy discloses the invention as recited above but fails to state if the indicator could be a vibration device. It is well known that indicators could generate light, sound, or vibration in sport devices. Conley is one reference that teaches the use of a signaling device that comprises a vibrator (see column 3, lines 65-67). It would have been obvious to one of ordinary skill in the art to provide the Dealy device with an indicator that vibrates in order to provide a device that does not distract other players in a sport fields.

**Claim 7** is rejected under 35 U.S.C. 103(a) as being unpatentable over Dealy in view of Burke (US Patent No. 6,991,552).

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Dealy does not disclose the use of a printed circuit board. However the use of such type of device is well known in sport and Burke is one reference among many that teaches such type of element (see Fig. 6 including element 62). It would have been obvious to provide the Dealy device with a printed circuit board in order to process and store data to the user of the device.

### ***Allowable Subject Matter***

**Claim 4** is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

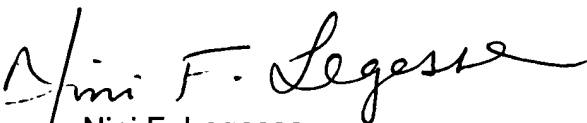
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nini F. Legesse whose telephone number is (571) 272-4412. The examiner can normally be reached on 9 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Kim can be reached on (571) 272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Nini F. Legesse  
Primary Examiner  
Art Unit 3711

11/13/06